IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 241 OF 2006

Ms. R.A. Maqbool ... Petitioner

Versus

The Dawoodbhoy Razzackbhoy Muslim Education Trust and others ... Respondents

Mr. S.P. Kadam for the petitioner.
Mr. Navin Parikh, instructed by Mr. S.H. Patel, for respondent No.3.
Mr. P.M. Mokashi, Assistant Government Pleader, for respondent No.4.

CORAM: **SWATANTER KUMAR, C.J.** &
S.C. DHARMADHIKARI, J.

DATE: APRIL 12, 2007.

P.C.

In this petition under Article 226 of the Constitution of India, the petitioner prays for issuance of an appropriate writ, order or direction to respondent No.3 to reinstate the petitioner in service and pay her full back wages, unpaid salary, etc.

2. The learned counsel appearing for the respondents at the very outset stated that they are very anxious to complete the departmental enquiry but they could not do so because of interim orders which were in force restraining them from proceeding against

the petitioner.

3. However, it is now commonly conceded that the injunction order passed by the City Civil Court has already been vacated in the year 1999. However, till today the departmental enquiry has not been completed. According to the petitioner, the respondents are not taking steps in accordance with law while according to the respondents, the petitioner is not co-operating. So they cannot complete the departmental enquiry. We are not called upon to decide at this stage and find fault with either of the parties before us. However, in the interest of justice, we dispose of this petition with the following directions:-

(i) The departmental enquiry shall be concluded by the respondents within six months from today.

(ii) The petitioner herein shall appear before the Enquiry Officer on 30th April, 2007, at 11.00 a.m. in the office of the Enquiry officer. Thereafter the matter shall proceed in accordance with the Rules applicable to the petitioner.

(iii) We make it clear that in the event the petitioner does not co-operate and does not appear before the authorities concerned, the Enquiry Officer or the Disciplinary Authority shall be at liberty

to proceed in accordance with law, conclude the enquiry and pass appropriate orders.

(iv) Under no circumstances, the department shall take a period in excess of the time allowed by the Court and would make every possible endeavour to complete the enquiry proceedings as well as pass appropriate orders within the time stipulated in this order.

(v) The petitioner shall make a representation to the authorities with regard to payment of subsistence allowance and the period for which it has not been paid. Along with the said representation, the petitioner shall also file an indemnity bond undertaking to refund the amount paid to her on account of subsistence allowance, in the event they find that the Court orders are adverse to the interest of the petitioner. The undertaking to also state whether she was employed anywhere else and, if so, at what salary. Upon the representation being filed, the respondents shall consider the same, pass orders and if any subsistence allowance is payable, the same shall be paid within one month from the date of the decision.

4. The above directions are otherwise in the interest of justice and would bring an end to the prolonged litigation. The consent given by the parties shall be treated as a consent order.

5. With the above directions, the writ petition is disposed of.

CHIEF JUSTICE

S.C. DHARMADHIKARI, J.